

IT IS ORDERED

Date Entered on Docket: July 16, 2021



The Honorable David T. Thuma  
United States Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

In re:

THOMAS FRANCIS YOUNG and  
CONNIE ANGELINA YOUNG,

Case No. 20-11844-t7  
Chapter 7

Debtors.

**STIPULATED ORDER GRANTING TRUSTEE'S APPLICATION TO EMPLOY BK  
GLOBAL REAL ESTATE SERVICES AND RE/MAX FIRST (MIRANDA MILLER) AS  
REAL ESTATE BROKERS**

This matter came before the Court on the *Chapter 11 Subchapter V Trustee's Application to Employ BK Global Real Estate Services and RE/MAX First (Miranda Miller) as Real Estate Brokers*, filed May 25, 2021 (Doc. No. 228) (the "**Application**"). Having considered the Application, the record, and the requirements set forth in the Bankruptcy Code and Bankruptcy Rules, and being otherwise sufficiently advised;

THE COURT FINDS:

1. On September 23, 2020 (the "**Petition Date**"), Thomas Francis Young and Connie Angelina Young (together, the "**Debtors**") commenced the above-captioned case by filing a

voluntary petition for relief under chapter 11 of the Bankruptcy Code. Daniel A. White was appointed as the chapter 11, subchapter V trustee for this case.

2. On June 4, 2021, this Court entered a *Stipulated Order Converting Case to Proceeding Governed By and Administered Under Chapter 7 of the Bankruptcy Code* (Doc. No. 234) (the “**Order**”) and Yvette J. Gonzales was appointed as the Chapter 7 Trustee.

3. On June 7, 2021 Yvette J. Gonzales was removed from the case and Daniel A. White was substituted as the Chapter 7 Trustee herein (the “**Trustee**”).

4. On June 18, 2021, the Trustee filed a *Supplement to Application to Employ BK Global Real Estate Services and Re/Max First (Miranda Miller) as Real Estate Brokers* (Doc. No. 242), wherein the Trustee adopted the Application and filed a copy of the *BK Global Co-Listing Agreement* between the proposed brokers, referred to in the listing agreement attached to the Application;

5. As disclosed on the Debtors’ Schedule A, the estate owns real property located at 307 Pino Rd., Santa Fe, New Mexico 87505 (the “**Property**”). The Debtors have not claimed any exemption in the Property. MTGLQ Investors, L.P. (“**MTGLQ**”) asserts a mortgage lien of \$521,079.90 on the Property. *See* Claim 2-2. The judgment lien of First American Bank (“**First American**”), which it has asserted is in the amount of \$128,161.27 also encumbers the Property. *See* Claim 11-1. RMF has analyzed the value of the Property, and does not believe that there is any equity in the property above even the first lien of MTGLQ.

6. The Application requests approval of the employment of Miranda Miller of Re/Max First and BK Global Real Estate Services (together, “**Brokers**”) as real estate broker in connection with the sale of the Property.

7. The Application proposes that Brokers would provide general real estate brokerage services, including but not limited to: listing the Property, marketing the Property, and producing necessary paperwork to effectuate the sale of the Property. The terms of Brokers’ employment by the

Trustee are set forth more specifically in the Agreement and in paragraph 6 below. The Agreement provides for Brokers to be paid brokerage compensation of 6% of the final sale price, plus applicable New Mexico gross receipts tax. The Listing Agreement further provides that if the buyer of the Property does not employ a broker, Brokers will split their commission 4% to RMF and 2% to BK Global. The Listing Agreement further provides that, in the event the buyer of the Property employs a broker, Brokers will split their 6% commission such that the buyer's broker receives a commission of 2% on the total sale price RMF receives 2%, plus applicable gross receipts tax, and BK Global receives 2%. For avoidance of doubt, BK Global is not entitled to additional compensation beyond its split of commission.

8. The Trustee represents that the reference to the "Covid 19 Addendum" set forth in paragraph 33 of the Agreement was extraneous verbage held over from a prior draft, and that no such document has been executed.

9. On May 26, 2021, the subchapter v trustee served notice of filing the Application (the "**Notice**"), pursuant to Fed. R. Bankr. P. 2002 and 9109, to all creditors and other parties in interest as shown on the mailing matrix maintained by the Court, specifying an objection period of twenty-one (21) days from the date of mailing, plus (3) days based upon service by mail, for a total of twenty-four (24) days.

10. On May 26, 2021, the subchapter v trustee filed the Notice with the Court (Doc. No. 216);

11. The Notice was appropriate in the particular circumstances;

12. The deadline to object to the Application, including three days added under Fed. R. Bankr. P. 9006(f), expired on or before June 21, 2021;

13. On June 16, 2021, the Debtors filed their Response in *Limited Opposition to Chapter 11 Subchapter V Trustee's Motion to Employ BK Global Real Estate Services and Re/Max First (Miranda Miller) as Brokers*, objecting in part to the Application (Doc. No. 241) (the "**Debtors' Objection**");

14. On June 21, 2021, Kurt Young filed his Objection to BK Global Real Estate services appointment [sic] (Doc. No. 246), objecting in part to the Application (the “**K. Young Objection**”);

15. On July 12, 2021, the K. Young Objection was withdrawn (Doc. No. 269);

16. No other objections to the Application were filed, timely or otherwise;

17. The Debtors’ Objection is resolved by consent as set forth herein;

18. The Application is well taken and should be granted as provided herein; and

19. No just reason exists to delay entry hereof.

IT IS THEREFORE ORDERED:

A. The Application and the underlying Listing Agreement are deemed adopted by the Trustee.

B. The reference to the “Covid 19 Addendum” in paragraph 33 is hereby stricken.

C. The Trustee’s employment of Re/Max First (Miranda Miller) and BK Global Real Estate Services as his real estate brokers for the Property is hereby approved, pursuant to 11 U.S.C. § 327(a) as an administrative expense, in accordance with the terms and conditions set forth in the Agreement attached to the Application. For avoidance of doubt, if there is ambiguity regarding the amount of compensation due to brokers, paragraph 7 of this order controls.

D. The Trustee is authorized to pay Re/Max First (Miranda Miller) and BK Global Real Estate Services their compensation as set forth above without further Court order or notice to parties.

E. On or before July 19, 2021, the Debtors shall provide the Trustee with an affidavit stating the depreciation they have taken on the Property, and what records they have been able to identify, if any, as to improvements to the Property over \$5,000.00.

### END OF ORDER ###

Submitted by:

ASKEW & WHITE, LLC

By: s/ submitted electronically

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Approved as to form:

And

ILENE LESHINSKY  
United States Trustee

By: Approved via e-mail on 7/13/2021

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